

Appl. No. 09/995,726
Amendment dated July 15, 2004
Reply to Final Office Action of April 21, 2004

Comments and Response

Claims 1-21 are pending and of these claims 11-21 have been allowed and claims 1-10 stand rejected under § 103(a). Claim 1 has been amended to further clarify the invention. In view of the comments below Applicant respectfully request that the Examiner reconsider the present application including claims 1-10 and withdraw the rejections of these claims.

The Examiner maintains in the final office action that Applicant's arguments filed 02/09/04 have been fully considered but they are not persuasive. The Examiner then states "Applicant's remarks state the cited reference, Palmer et al doesn't have the threshold value to attempt service acquisition. However, to clarify the measurement parameters that is made to determine if a device should rate shift or roam in the next transmission based on a failure to transmit or receive or before the next service acquisition is acquired; in col. 5, lines 53-55 a threshold is used as a measurement decision criteria in conjunction with the configurable parameters to determine whether to rate shift or roam for the next transmission." The Examiner then concludes "Therefore, the cited reference still reads on the broadest interpretation of the claimed invention and the rejection made 02/09/04 including the allowed claims 11-21 is maintained for the reason above and in the last previous office action listed below."

The Examiner has mischaracterized the comments in the Feb 9, 2004 response in Applicant's respectfully considered view. Applicant never said that Palmer et al or any other reference did not show or suggest some threshold. Applicant said that Palmer et al did not speak to the initial or first question that faces a wireless device, namely whether to attempt or undertake

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network access at all. The words used in the present specification and claims for these concepts are service acquisition, service acquisition mode, and the like. Only after this initial or threshold question has been resolved do the concerns (roaming to another site, rate shifting, what particular files or other services are available, etc) discussed by Palmer et al and Liu become relevant.

a) Claims 1-4 and 8-10 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al (U.S. Patent No. 6,556,553) in view of Liu (U.S. Patent No. 5,825,759).

Claim 1 has been amended to recite among other limitations "foregoing said service acquisition mode when the decision is unfavorable, wherein power supply capacity is conserved when the decision is unfavorable." Clearly neither of the cited references deal with power conservation or selectively controlling service acquisition (network acquisition) pursuant thereto as claimed. For this reason in addition to those reasons noted in previously filed responses to office actions Palmer et al and Liu whether taken alone or together do not show or suggest all limitations of any of the claims. The Examiner is referred to the previously filed responses for specific discussion regarding other distinctions between the claimed invention and teachings of the presently cited references.

Thus and for these reasons, Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 1-4 and 8-10 under 35 U.S.C. 103(a) based on Palmer et al (U.S. Patent No. 6,556,553) in combination with Liu (U.S. Patent No. 5,825,759).

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b) Claims 5 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al in view of Liu and further in view of Jyogataki et al. (U.S. Patent No. 6,192,251).

As noted in previous responses, claims 5 and 7 are dependent upon claim 1. From above Applicant believes that claim 1 is allowable over the combination of Palmer et al. and Liu references. The Jyogataki et al reference does nothing to suggest or supply the missing teachings and thus claim 1 appears to be allowable over the combination of all three references. Therefore claims 5 and 7 at least by dependency should likewise be deemed allowable. Therefore Applicant respectfully requests that the Examiner reconsider and withdraw this rejection of claims 4-5 and 7 under 35 U.S.C. 103(a) based on Palmer et al (U.S. Patent No. 6,556,553) in combination with Liu (U.S. Patent No. 5,825,759) and further Jyogataki et al. (U.S. Patent No. 6,192,251).

c) Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer et al in view of Liu in view of Jyogataki et al. as applied to claim 5 above, and further in view of Moore et al. (U.S. Patent No. 6,434,381).


As noted in earlier responses to office actions, claim 6 is dependent upon claim 1. From above Applicant believes that claim 1 is allowable over the combination of the Palmer et al. and Liu references. The Jyogataki et al or the Moore, et al. (U.S. Patent No. 6,434,381) references do nothing to supply or suggest the missing teachings and thus claim 1 appears to be allowable over the combination of all four references. Therefore claim 6 at least by dependency should likewise be deemed allowable. Therefore

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Accordingly, Applicant respectfully submits that the claims, as amended, clearly and patentably distinguish over the cited references of record and as such are to be deemed allowable. Such allowance is hereby earnestly and respectfully solicited at an early date. If the Examiner has any suggestions or comments or questions, calls are welcomed at the phone number below.

Although it is not anticipated that any fees are due or payable, the Commissioner is hereby authorized to charge any fees that may be required to Deposit Account No. 50-1147.

Respectfully submitted,


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